

Amendment and Response under 37 C.F.R. 1.116

Applicant: Michael B. Raynham

Serial No.: 09/848,574

Filed: May 3, 2001

Docket No.: 10004326-1

Title: WIRELESS SERVER DIAGNOSTIC SYSTEM AND METHOD**REMARKS**

The following remarks are made in response to the Final Office Action mailed September 21, 2004. In that Office Action, the Examiner objected to claims 2, 5, 6, 9, 10, 11, 13, 16-20, 22, 24, and 28 as being dependent upon a rejected base claim, however, the Examiner indicated that these claims would be allowable if re-written in independent form.

Claims 1, 12, 14, 15, 23, and 25-27 were rejected under 35 U.S.C. §102(e) as being anticipated by Sexton, U.S. Patent Application Publication No. 2002/0068983 ("Sexton"). Claims 3, 4, 7, 21, and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sexton. Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sexton as applied to claim 1 above, and further in view of McLlroy et al., U.S. Patent No. 6,701,521 ("McLlroy"). Claims 35-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Worley, U.S. Patent No. 6,651,190 ("Worley").

The Examiner's indication that claims 29-33 and 38-43 have been allowed is noted with appreciation.

With this Response, claims 1, 23, and 35 have been amended. Claims 1-43 remain pending in the application and are presented for reconsideration and allowance.

35 U.S.C. §102 Rejections

The Examiner rejected claims 1, 12, 14, 15, 23, and 25-27 under 35 U.S.C. §102(e) as being anticipated by Sexton, U.S. Patent Application Publication No. 2002/0068983 ("Sexton"). Applicant has amended independent claim 1 to include the language "the service information including system status information for the first server", and has amended independent claim 23 to include the language "wherein the service information includes system status information for the first server". As previously described with respect to claim 29, which has now been allowed, Sexton discloses that ISP server 28 uses a Wireless Application Protocol (WAP) to transmit data to device 34 (see, e.g., Sexton at para. no. 14), but there is no teaching or suggestion in Sexton that the data transmitted by ISP server 28 includes system status information for the ISP server 28.

In view of the above, independent claims 1 and 23, as amended, are not taught or suggested by Sexton. In addition, dependent claims 12, 14, 15, and 25-27, which further

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limit patentably distinct claim 1 or claim 23, are also believed to be allowable over the cited reference. Applicant respectfully requests entry of the amendment to claims 1 and 23, and allowance of claims 1, 12, 14, 15, 23, and 25-27 is respectfully requested.

35 U.S.C. §103 Rejections

The Examiner rejected claims 3, 4, 7, 21, and 34 under 35 U.S.C. §103(a) as being unpatentable over Sexton. Claims 3, 4, 7, and 21 are dependent on independent claim 1. As described above with reference to claim 1, Sexton does not teach or suggest each and every limitation of claim 1. Since claims 3, 4, 7, and 21 further limit patentably distinct claim 1, claims 3, 4, 7, and 21 are believed to be allowable over the cited reference. Allowance of claims 3, 4, 7, and 21 is respectfully requested. Claim 34 is dependent on allowed claim 29. Since claim 34 further limits allowed claim 29, claim 34 is believed to be allowable over the cited reference, and allowance of claim 34 is respectfully requested.

The Examiner rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over Sexton as applied to claim 1 above, and further in view of McLlroy et al., U.S. Patent No. 6,701,521 ("McLlroy"). Claim 8 is dependent on independent claim 1. As described above with reference to claim 1, Sexton does not teach or suggest "the service information including system status information for the first server" as recited in claim 1. McLlroy also does not teach or suggest this limitation of claim 1. Thus, Sexton and McLlroy, either alone, or in combination, do not teach or suggest each and every limitation of claim 1 or claim 8. There is also no suggestion to combine Sexton and McLlroy. Since claim 8 further limits patentably distinct claim 1, claim 8 is believed to be allowable over the cited references. Allowance of claim 8 is respectfully requested.

The Examiner rejected claims 35-37 under 35 U.S.C. §103(a) as being unpatentable over Worley, U.S. Patent No. 6,651,190 ("Worley"). As amended by Applicant, independent claim 35 includes the limitation "the wireless communications subsystem configured to wirelessly transmit at least a subset of the server status information via short-range wireless communications to a portable diagnostic tool". Worley does not teach or suggest a server with a wireless communications subsystem that is configured to wirelessly transmit at least a subset of the server status information via short-range wireless communications to a portable diagnostic tool, as recited in independent claim 35, as amended.

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In view of the above, independent claim 35, as amended, is not taught or suggested by Worley. In addition, dependent claims 36 and 37, which further limit patentably distinct claim 35, are also believed to be allowable over the cited reference. Applicant respectfully requests entry of the amendment to claim 35, and allowance of claims 35-37 is respectfully requested.

CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-43 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-43 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 08-2025.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either David M. Mason at Telephone No. (408) 447-4046, Facsimile No. (408) 447-0854 or Jeff A. Holmen at Telephone No. (612) 573-0178, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being transmitted via telefacsimile to the U.S. Patent and Trademark Office, ATTN: Examiner Anne L. Damiano, Fax No. (703) 872-9306, on this 1st day of November, 2004.

By Jeff A. Holmen
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